

Division of Public Works

Sewer Use Ordinance

Chapter 33

(Revised: Ordinance #5099 June 8, 2005)

## Chapter 33

## SEWERS AND SEWAGE DISPOSAL\* MEMPHIS CODE

- Art. I. In General, ##33-1--33-15
- Art. II. Use of Public and Private Sewage Disposal Methods, ##33-16--33-125
  - Div. 1. Generally, ##33-16--33-25
  - Div. 2. Use of Public Sewers, ##33-26--33-40
  - Div. 3. Private Sewage Disposal, 1433-41--33-60
  - Div. 4. Building Sewers, Connections, Sewer Extensions and Development Fees, ##33-61--33-80
  - Div. 5. System Discharge Agreements, ##33-81--33-100
  - Div. 6. Discharge To Public Sanitary Sewers, 11#33-101--33-125
- Art. III. Administration of Wastewater Treatment Facilities, ##33-126--33-185
  - Div. 1. Generally, ##33-126--33-130
  - Div. 2. Sewer Fees and Charges, ##33-131--33-140
  - Div. 3. Powers and Authority of Inspectors, ##33-141--33-155
  - Div. 4. Billing Procedures, ##33-156--33-170
  - Div. 5. Pretreatment Enforcement, ##33-171--33-185

#### ARTICLE I. IN GENERAL

Secs. 33-1--33-15. Reserved.

\*Cross references- Memphis Light, Gas and Water division, #2-256 et seq.; water and/or water closets and equipment requirements for barbershops, #6-3; required toilet facilities in day care centers, #12-7; garbage, trash and refuse, Ch.15; health and sanitation, Ch.16; toilet facilities required in coin-operated launderettes, #16-158; sewage disposal in food establishments, #16-208; required toilet facilities at public swimming pools, #16-434; planning, Ch.26; required toilets and urinals in undertaking establishments, #28-6; sewage disposal requirements for trailer courts, #30-28; rivers and harbors, Ch.32; streets and sidewalks, Ch.34; toilets, urinals, etc., required in tattoo shops, #35-28; building code, Ch.44; plumbing, Ch.49.

**State law references**- Power to acquire, construct and maintain sewage system and to charge for service, T.C.A. #7-35-401 et seq.; authority to require connections to sewer system, T.C.A. #7-35-201(1).

## ARTICLES II. USE OF PUBLIC AND PRIVATE SEWAGE DISPOSAL METHODS

#### **DIVISION 1. GENERALLY**

#### SEC. 33-16. **Definitions.**

Unless the context specifically indicates otherwise, the meaning of terms used in this article shall be as follows:

Additional treatment cost shall mean that portion of the service charge, which is levied on those users whose wastes are greater in strength than the concentration values established as representative of normal sewage or wastewater.

<u>Alkalinity</u> shall mean the mass of a 100% sulfuric acid required to reduce the pH of a given volume of wastewater to a pH of 7.0. I'he value is expressed as pounds of sulfuric acid per day.

<u>Approving authority</u> shall mean the director of public works of the City or his duly authorized agent representative.

<u>Authorized Representative of Industrial User.</u> An authorized representative an Industrial User shall be:

- (1) A responsible corporate officer if the Industrial User is a Corporation. A responsible corporate officer means (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (2) A general partner or proprietor if the Industrial User is a partnership or sole proprietorship respectively.

company; and (iii) the written authorization is submitted to the Control Authority.

- (3) A duty authorized representative of the individual designated in paragraph (1) or (2) if: (i) The authorization is made in writing by the individual described in paragraph (1) or (2); (ii) The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the Industrial Discharge originates, such as the position of plant manager, operator of the well, or well field superintendent, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the
- (4) If an authorization under paragraph (3) is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall

responsibility for environmental matters for the company, a new authorization satisfying the requirements of paragraph (3) must be submitted to the Control Authority prior to or together with any reports to be signed by an authorized representative.

<u>Beneficial use</u> shall mean uses of the waters of the state that may be protected against quality degradation. Uses include domestic, municipal, agricultural and industrial supply, power generation, recreation, aesthetic enjoyment, navigation and the preservation, and enhancement of fish, wildlife, and other aquatic resources or reserves, and other uses, both tangible or intangible, as specified by federal or state law.

BOD (denoting biochemical oxygen demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees centigrade, expressed in milligrams per liter.

<u>Building sewer</u> shall mean the extension from the building to the public sewer or other place of disposal, also called "house connection."

<u>Categorical standards</u> shall mean national pretreatment standards.

<u>Chlorine requirement</u> shall mean the amount of chlorine, in milligrams per liter, which must be added to sewage to produce residual chlorine content or to meet the requirements of some other objective in accordance with procedures set forth in Standard Methods.

<u>COD</u> (denoting chemical oxygen demand) shall mean the measure of oxygen-consuming capacity of inorganic and organic matter present in wastewater. It is expressed as the amount of oxygen consumed from a chemical oxidant in a specific test. It is expressed in milligrams per liter.

<u>Combined sewer</u> shall mean a sewer receiving both surface runoff and sewage.

<u>Contributing industry</u> shall mean those industries discharging into the municipally owned sewer system.

Director shall mean the Director of Public Works.

<u>Discharge Agreement</u> is the control mechanism issued by the City of Memphis to selected industrial/commercial users that establish specific parameter limits and other requirements for proper control and monitoring of the wastewater discharges. Failure to comply with the requirements set forth in these documents will result in enforcement actions, which may include administrative fines and withdrawal of the privilege to use the City of Memphis wastewater system.

<u>Division</u> shall mean the Division of Public Works of the City of Memphis.

Easement shall mean an acquired legal right for the specific use of land owned by others.

<u>EPA</u> shall be defined as the Environmental Protection Agency of the Federal Government.

<u>Garbage</u> shall mean solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

<u>Holding-tank waste</u> shall mean any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks and vacuum-pump tank trucks.

Hydrogen ion concentration: See "pH"

<u>Industrial wastes</u> shall mean the wastewater from industrial processes, trade or business, as distinct from domestic sanitary sewage.

Interference shall mean inhibition or disruption of the sewer system, treatment processes or operations or which contributes to a violation of any requirement of the city's NPDES permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with criteria, guidelines or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.

<u>Local hearing authority</u> means the Mayor of the City of Memphis, which is responsible for the administration, and enforcement of that program and provisions of this ordinance, created pursuant to Tennessee Code Annotated 69-3-103.

<u>Mass emission rate</u> shall mean the weight of material discharged to the community sewer system during a given time interval. Unless otherwise specified, the mass emission rate shall mean pounds per day of a particular constituent or combination of constituents.

mg/l shall be defined as a concentration unit of milligrams per liter of solution.

<u>National pretreatment standards (or pretreatment standard)</u> means any regulation containing pollutant discharge limits promulgated by the Environmental Protection Agency in accordance with the act which applies to industrial users.

<u>Natural outlet</u> shall mean any outlet, including storm sewers and combined sewer overflows into a watercourse, pond, ditch, lake or other body of surface or ground water.

<u>pH</u> shall mean the logarithm of the reciprocal of the hydrogen ion concentration. The concentration is the weight of hydrogen ions in grams per liter of solution. Natural water, for example, has a pH value of seven and a hydrogen ion concentration of 10 to the negative seventh power.

<u>Polluted waters</u> are those waters, which, when discharged to a watercourse, cause the deterioration of water quality so as to make such water unsuitable for uses as defined by the regulatory agency.

Pretreatment agency shall mean the City of Memphis.

<u>Pretreatment program</u> shall mean, pursuant to Tennessee Code Annotated 69-3-103, the rules, regulations and ordinances of the City of Memphis regulating the discharge and treatment of industrial waste which complies with said state statute 33 U.S.C. 1251 et seq., and 40 C.F.R. 403.1 et seq.

<u>Priority Pollutants</u> shall mean any chemical substance specified by the EPA or State of Tennessee as being toxic and which is regulated in quantity or in concentration.

<u>Properly shredded garbage</u> shall mean the wastes from the preparation, cooking and dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.

<u>Publicly owned-treatment works (or POTW)</u>: A treatment works, which is owned by the city. This definition includes any sewers that convey wastewater to such a treatment works, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. The term also means the city, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

<u>Regulatory agent</u> shall mean the Memphis Division of Public Works, the Tennessee Water Quality Control Board, or the Memphis/Shelby County Health Department, or the Division of Water Pollution Control of the Tennessee Department of Public Health and Environment, whichever has jurisdiction.

<u>Sanitary sewer</u> shall mean a sewer, which carries sewage, or wastewater to which storm, surface and ground waters are not intentionally admitted.

Service charge shall mean the assessment levied on all users of public sewer system.

<u>Sewage or wastewater</u> shall mean a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with any groundwater, surface water, and storm water that may be present.

<u>Sewage or wastewater treatment plant</u> shall mean an arrangement of devices and structures for treating wastewater, industrial wastes and sludge; sometimes used as synonymous with "waste-treatment plant" or "water pollution control plant".

Significant Industrial User or SIU. Any Industrial/Commercial User of the City of Memphis Wastewater System or Wastewater Systems connected to the City of Memphis Wastewater System that is subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N. and/or has a discharge flow of 25,000 gallons or more per average work day and/or; has a discharge which is greater than five percent (5%) of the hydraulic flow and/or organic design capacity of the portion of the City of Memphis Wastewater System being utilized and/or; has a discharge which contains toxic pollutants or Priority Pollutants as

defined pursuant to Section 307 of the Act of Tennessee Statutes and Rules and Regulation and/or; is found by the City of Memphis, the State of Tennessee or the EPA to have significant impact, either singly or in combination with other contributing industries on the wastewater system, the quality of sludge produced the Wastewater System's effluent quality, groundwater in the area, or air emission generated by the Wastewater System.

<u>Sludge or wastewater system</u> shall mean all facilities for collecting, pumping, treating and disposing of sewage.

<u>Slug Discharge</u> is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge or of any discharge of water or wastewater which, in concentration of any given constituent or in quantity of flow, is "found" to be detrimental to the operation of the wastewater treatment plant or collection system.

Standard Methods. The analytical procedures set forth in the latest edition of "standard Methods for the Examination of Water and Wastewater" published by the American Public Health Association; and/or "EPA Methods for Chemical Analysis of Water and Wastes" as per 40 CFR Part 136 and amendments there to; and/or City of Memphis, Public Works Division's laboratory procedures for certain tests that detail specific requirements that are not addressed elsewhere or are presented as optional.

<u>Storm drain</u> (sometimes termed storm sewer) shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes other than unpolluted cooling water.

<u>Suspended solids</u> shall mean total suspended matter that either floats on the surface of, or is in suspension in, water, wastewater, or other liquids, and that is removable by laboratory filtering as prescribed by Standard Methods.

<u>The act</u> shall mean the Federal Water Pollution Control Act, Public Law92-500, and any amendments thereto; as well as any guidelines, limitations and standards promulgated by the Environmental Protection Agency pursuant to the act.

<u>TOC</u> (denoting Total Organic Carbon) shall mean the measure of the concentration of covalently bonded carbon, which is combustible to carbon dioxide. It is not to be confused with elemental carbon, dissolved carbon dioxide, inorganic carbonates or bicarbonates.

<u>Unpolluted water</u> is water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving- water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

<u>User</u> shall mean any person that discharges, causes or permits the discharge of wastewater into a community sewer.

<u>Watercourse</u> shall mean a channel or conduit in which a flow of water occurs, either continuously or intermittently.

Nothing contained in this article shall be construed to interfere with any additional requirements that may be imposed by the regulatory agency. When industrial wastes, prior to discharge to a watercourse, are treated in a manner that is approved by the regulatory agency, no connection to the public sewer shall be required. Terms for which definitions are not specifically herein provided shall be interpreted as defined in the current edition of Glossary: Water and Wastewater Control Engineering, as published by the Water Pollution Control Federation, Washington, D.C.

(Ord. No.2597, #1,6-7-77; Ord. No.2877, #1,5-15-79; Code 1967, #35 1/2-1)

Secs. 33-17--33-25. Reserved.

#### **DIVISION 2. USE OF PUBLIC SEWERS**

#### Sec. 33-26. Discharge to natural outlets where public sewer available prohibited.

It shall be unlawful to discharge to any natural outlet within the city, or in any area under the jurisdiction of the city, any untreated sewage or other polluted waters, where suitable public collection and/or treatment has been provided in accordance with the provisions of articles II and III of this chapter, except where a federal national pollutant discharge elimination system permit has been duly issued and is currently valid for such discharge.

(Ord. No. 2597, #1, 6-7-77; Ord. No. 2877, A, 5-15-79; Ord. No. 3119, #1(1), 4-21-81; Code 1967, #35 1/2-2)

#### Sec. 33-27. Maintaining private methods of disposal.

Except as hereinafter provided in this chapter, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.

(Ord.No.2597,#1,6-7-77; Ord. No.2877,#1,5-15-79; Code 1967, #35 1/2-3)

## Sec. 33-28. Connection to public sanitary or combined sewer, when required.

The owner, occupant or lessee of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the city and abutting on any street, alley, right-of-way, or easement in which there is now located or may in the future be located a public sanitary or combined sewer of the city, is hereby required at his expense to install suitable sanitary facilities therein and to connect such facilities directly with the proper public sewer, in accordance with the provisions of articles 11 and III of this chapter within one year after date of official notice by the regulatory agency to do so, as long as no health hazard exists or is imminent. In cases of health hazards as determined by the city and county health department, the owner, occupant or lessee must connect within ninety (90) days of the official notice of the city and county health department that there exists a health hazard or that a health hazard is imminent.

(Ord. No.2597, #1,6-7-77; Ord. No.2877,#1,5-15-79; Ord. No.3119, #1(2),4-21-81; Code 1967, #35 1/2-4)

#### Sec. 33-29. Disconnection of sanitary sewer service.

Any person wishing to demolish a building or remove the sanitary sewer service from any point into their property shall obtain a "sanitary sewer line cap permit." After this line has been capped, joints shall be left exposed and inspected by the approving authority. There shall be a fee of fifteen dollars (\$15.00) for this service, payable upon receipt of this permit. All construction procedures and specifications relative to capping shall be approved by the approving authority. Proceeds from these fees shall be placed in the sewer revenue fund indicated in division 2 of article III of this chapter.

(Ord. No.2597,#1,6-7-77; Ord. No.2877,#1,5-15-79; Code 1967, #35 1/2-5)

Secs. 33-30--33-40. Reserved.

#### **DIVISION 3. PRIVATE SEWAGE DISPOSAL**

## Sec. 33-41. Required when public sanitary sewer not available.

Where a public sanitary sewer is not available under the provisions of section 33-28 of this chapter, the sewer shall be connected to a private sewage disposal system complying with the provision of this article.

(Ord. No. 2597, #1,6-7-77; Ord. No. 2877, #1, 5-15-79; Code 1967, #35 1/2-6)

## Sec. 33-42. Permit-Required; application and fees.

Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the regulatory agency. The application for such permit shall be made on a form furnished to the applicant, which the applicant shall supplement by any plans, specifications, and other information, which may be deemed necessary by the regulatory agency. A permit and inspection fee as designated by the regulatory agency shall be paid at the time application is filed. The permit and inspection fee of twenty-five dollars (\$25.00), to help defray the cost of plans and review and construction inspection, shall be paid to the city and shall be placed in an account designated as "sewer treatment fund." (Ord.No.2597, #1,6-7-77; Ord. No.2877,#1,5-15-79; Code 1967, #35 1/2-7)

## Sec. 33-43. Same-Effective date; notification of completion of work; inspection.

A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the regulatory agency. The regulatory agency shall be allowed to inspect the work at any stage of construction, and, in any event, the applicant for the permit shall notify the regulatory agency when the work is ready for final inspection and before any underground portions are covered. The inspection shall be made within seventy-two (72) hours of the receipt of notice by the regulatory agency.

(Ord No.2597, 01,6-7-77; Ord. No.2877, #1,5-15-79; Code 1967, #35 1/2-8)

## Sec. 33-44. Design and other specifications; discharge to natural outlet prohibited.

The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendation of the regulatory agency. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(Ord. No.2597,r-1,6-7-77; Ord. No.2877,#1,5-15-79; Code 1967, #35 1/2-9)

# Sec. 33-45. Connection to public sewer upon availability, filling of abandoned facilities required; hardship exemptions.

At such time as a public sewer becomes available to a property served by private sewage disposal system, a direct connection shall be made to the public sewer in compliance with articles 11 and III of this chapter, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled with suitable material, as required by the regulatory agency. In the event a person cannot make immediate connection, application may be made for a hardship exemption. Proof of hardship is incumbent upon the applicant. The city and county health department, upon recommendation of the division of public works, may grant a hardship exemption, not to exceed twelve (12) months, as long as no health hazard exists or is imminent.

(Ord. No.2597,#1,6-7-77; Ord. No.2877,#1,5-15-79; Code 1967, #35 1/2-10)

## Sec. 33-46. Maintenance and manner of operation.

The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city. The removal of septage (septic contents) from private sewage disposal facilities shall be performed by individuals licensed to perform such work.

(Ord. No.2597,#1,6-7-77; Ord. No.2877,#1,5-15-79; Code 1967, #35 1/2-11)

#### Sec. 33-47. Private industrial disposal as exception to articles II and III provisions.

Nothing in articles II and III of this chapter shall exclude the right of any industry to properly discharge its wastewater, after proper treatment, into any stream designated by the state department of health for this purpose.

(Ord.No.2597, #1,6-7-77; Ord. No.2877, #1,5-15-79; Code 1967, #35 1/2-12

## Sec. 33-48 Penalty for violation of article.

Any person using the city storm sewers and drain system or any part thereof in violation of this article shall be guilty of a misdemeanor and subject to punishment as provided in section 1-8 of this Code.

(Ord.No.590,#6,12-2-69; Code 1967, #35 1/2-60)

Sec.33-49--33-60.Reserved

## DIVISION 4. BUILDING SEWERS, CONNECTIONS, SEWER EXTENSIONS AND DEVELOPMENT FEES

## Sec. 33-61. Permit requirements.

No unauthorized person shall uncover, make any connections with or opening into, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the approving authority. One copy of the permit shall at all times be available for inspection at the site of the work.

(Ord.No.2597,#1,6-7-77; Ord. No.2877,#1,5-15-79; Code 1967, #35 1/2-13) Cross reference - Taxes and licenses generally, Ch. 36.

#### Sec. 33-62. Sewer Development fees.

- (a) There is established a sewer development fee, as set forth herein, to defray part of the construction costs of the sewer collection system and treatment facilities, which fee shall be payable by the applicant, developer of the subdivision, or developer of industrial, commercial or residential site as set forth herein, and which fee shall be payable upon the execution of the subdivision contract or the sewer extension contract, or at the time of application for the sewer connection or plumbing permit, as appropriately determined by the approving authority. Sewer development fees shall apply to all subdivisions, land developments, new buildings, and redevelopments of land or buildings served by the city sanitary sewer system or where the facility served requires modification of or enlargement of the existing sewers, whether within or outside the corporate limits of the city and whether service is by existing or by new facilities to be constructed. Sewer development fees shall be as set forth in this section but not less than the final sewer extension fee as determined in Section 33-65:
  - (1) Residential lots, including churches and schools: two hundred forty dollars (\$240.00 per lot).
  - (2) Multi-dwelling buildings and publicly owned facilities: eight hundred forty dollars (\$840.00) per acre or one hundred dollars (\$100) per unit, whichever is greater.
  - (3) Commercial and industrial multi-unit buildings: twelve dollars (\$12.00) per front foot on the longest abutting street or private drive frontage, or eight hundred forty dollars (840.00) per acre, whichever is the greater.
- (b) For the purpose of this section, "multi-dwelling buildings" are duplexes, townhouses, apartments, hotels, motels, trailer courts, boardinghouses, rooming houses, transit homes or any other type of facilities for dwelling accommodations of individuals; "multi-unit buildings" are clinics, office buildings, nursing homes, hospitals, factories, restaurants, stores, warehouses and/or other building for commercial, industrial or public use.
- (c) No sewer development fee shall be assessed to a person authorized to install a private sewage disposal system pursuant to this division, but a development fee shall be charged to the developer or property owner when sanitary sewers are available under Section 33-28 or

when it is determined that sanitary sewers shall be extended to such development. The regulatory authority may thereafter require the installation of the sewer and the payment of the development fee. The developer, by applying for and receiving a private sewage disposal permit, shall agree to such fee when the sewer is available.

(d) Building additions and buildings added to a lot will not be subject to sewer development fees.

#### Sec. 33-63. Sewer Connection Fees

There is established a sewer connection charge, as set forth herein, to defray the construction costs of providing a sewer tap to a property which charges shall be payable by the owner, applicant, developer of the subdivision, or developer of industrial, commercial or residential site as set forth herein, and which charge shall be payable prior to the physical sewer connection being made. Sewer connection charges shall apply only where the physical connection is made by the approving authority.

- (a) Standard 4 or 6-inch connections to residential and small commercial facilities will be made at the owner's expense. The owner shall be responsible for all costs and expenses incurred.
- (b) For any connections other than standard connections as determined by the Approving Authority, or for a second connection to any property, the cost shall be based on time, materials and labor for the Approving Authority to install the connection.

#### Sec. 33-64 Sewer Extensions

- (a) The City shall permit the orderly extension of its sanitary sewer system to provide gravity sewer service of adequate capacity to unsewered properties and to properties not served by sewers of adequate capacity following the comprehensive plan and policies of the City for gravity sewer system expansion.
- (b) No person shall undertake to extend City sanitary sewer service to his property without entering into a sewer extension contract with the City.
- (c) In order for a property to be eligible for City participation in the cost of a gravity sewer extension, all of the following criteria must be met:
  - (1) The capacity, location and design of the proposed gravity sewer extension shall conform to the City's comprehensive plans and policies for extension of the sanitary sewer system.
  - (2) The portion of the property or contiguous properties under one ownership being the subject of the request for a sewer extension shall neither be served by gravity sanitary sewer at the time of the request, nor have previously been part of a parcel or tract of property which was served by gravity sanitary sewers; i.e., for the

- purposes of determining eligibility for City funding participation, once a property or contiguous properties under one ownership is served by gravity sewers, it cannot be disassociated from that sewer service by the sale of all or part of the property.
- (3) The property shall not be situated within the corporate limits or within the recognized annexation reserve area of another municipality unless the sewer extension will be used to serve other properties that would otherwise be eligible for City funding participation. The City shall participate in funding only those portions of the sewer extension, which will serve such other properties.
- (d) Whenever the City enters into a contract with a owner/developer relative to extending a sanitary sewer to his property, a reasonable estimated time shall be indicated in the contract for the completion of this service by the City.

#### Sec. 33-65. Sewer Extension Fees.

- (a) The developer/owner/applicant shall pay to the City, upon execution of the sewer extension contract, a sewer extension fee as set forth herein. The developer/owner/applicant may secure payment of the sewer extension fee, less any applicable sewer development fees, by executing a performance bond, certificate of deposit assigned to the City, or an irrevocable, automatically renewable letter of credit in favor of the City. Such securities shall be in the full amount of the sewer extension fee and be in a form acceptable to the City. Cash payment of the secured sewer development fee shall be made by the developer/owner/applicant to the City upon advertisement for bids for construction of the sewer extension.
- (b) Effective March 1, 1993 the minimum sewer extension fee shall be not less than forty percent (40%) of the cost of engineering including surveying, easement acquisition, inspection and construction of any sewer extension. A preliminary estimate, based on the estimated cost of construction, engineering, easement acquisition and inspection, shall be used for determining the fee to be charged to the developer for the purpose of entering into the sewer extension contract. The final cost accounting shall be determined by the City upon completion of the sanitary sewer extension, and final accounting shall be made to the developer of any additional fee required or refund due to the developer.

Effective March 1, 1994 the minimum sewer extension fee shall not be less than forty-five percent (45%) of the cost of engineering including surveying, easement acquisition, inspection and construction of any sewer extension.

Effective December 1, 1995 the minimum sewer extension fee shall not be less than fifty percent (50%) of the cost of engineering including surveying, easement acquisition, inspection and construction of any sewer extension.

(c) Sewer extension fees paid to the City shall run with the land described in the sewer extension contract for the purpose of defraying sewer development fees as determined in Section 33-62.

## Sec. 33-66. Urban Service Boundary; definition and amendment.

The Urban Service Boundary is defined by the Memphis 2000 Policy Plan and Map adopted by the Memphis City Council in September 1981 or its most recent adopted amendment. The Memphis and Shelby County Office of Planning and Development (O.P.D.) and the approving authority shall review the Urban Service Boundary at intervals not to exceed five (5) years, and recommendations for amendments, if any, shall be forwarded to the Memphis City Council for consideration.

#### Sec. 33-67. Internal Sewers and Upstream Properties.

- (a) The owner/developer or his successors in title or assigns shall, at the time of developing the property covered in the sewer extension contract, construct all internal sanitary sewers necessary to serve the property at their sole expense.
- (b) The owner/developer, upon entering into a sewer extension contract, shall grant permanent sanitary sewer easements and temporary construction easements to the City at no cost for future extension of the sanitary sewers through the property covered by the sewer extension contract to serve upstream properties. The sewer easement alignment shall be recommended by the owner/developer and be subject to the approval of the City. Acceptance of the sanitary sewer easements does not impose upon the City any obligation or responsibility to participate in the cost of or construct sanitary sewers within the easements.

## Sec. 33-68. Expenditure of City Funds; Limitation.

The City may only expend City funds on construction for which the City has contracted through the standard bidding process.

## Sec. 33-69. Fees Deposited in Sewer Fund.

All sewer development fees, connection fees and sewer extension fees collected herein shall be placed in the sewer collection and treatment fund established by Division 2 of Article III of this chapter and used for the purpose stated therein.

d. No. 2597, #1, 6-7-77; Ord. No. 2877, #1, 5-15-79; Code 1967,35 1/2-14)

# Sec. 33-70 Connection to be at expense of owner; indemnification of city; construction standards generally.

All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the city and its employees from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. All construction on the owner's property shall conform to the applicable plumbing code. (Ord. No.2597,#1,6-7-77; Ord. No.2877,#1,5-15-79; Code 1967, #35 1/2-15)

#### Sec. 33-71. Separate and independent connection required for each building; exception.

A separate and independent building sewer shall be provided for every building and for every dwelling unit in single family detached, single family attached and duplex developments, except that, where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer, but the city does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned.

(Ord. No.2597,#1,6-7-77; Ord. No.2877,#1,5-15-79; Code 1967, #35 1/2-16)

#### Sec. 33-72. Connection of old building sewers.

Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the approving authority, to meet all requirements of articles II and III of this chapter.

(Ord. No.2597, #1,6-7-77; Ord. No.2877,#1,5-15-79; Code 1967, #35 1/2-17)

## Sec. 33-73. Construction standards - Size; slope; materials; methods of excavation.

The size, slopes, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the building and plumbing codes and other applicable rules and regulations of the city.

(Ord. No.2597, #1,6-7-77; Ord. No.2877, #1,5-15-79; Code 1967, #35 1/2-18)

## Sec. 33-74 Same - Elevation; lifts, where required.

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building gradient is too shallow to permit gravity flow to the public sewer, sanitary sewage carried by such building gradient shall be lifted by an approved pumping system and discharged to the building sewer. The installation and operational expenses of this system shall be borne solely by the property owner. Ord. No.2597, #1,6-7-77; Ord. No.2877, #1,5-15-79; Code 1967, #35 1/2-19)

# Sec. 33-75 Same - Connection to sanitary sewer of sources of surface runoff, approval required.

No person shall make connection of roof downspouts, foundation drains, areaway drains, or other sources of surface runoff or groundwater to building sewer which in turn is connected directly or indirectly to a public sanitary sewer, unless connection is approved by the approving authority.

(Ord. No.2597, #1,6-7-77; Ord. No.2877, #1,5-15-79; Code 1967, #35 1/2-20) Cross reference- Discharge of stormwater into sanitary sewers prohibited, exception, #33-101

# See. 33-76. Same - Conformity of connection to codes, connection to be made gastight and watertight; inspection during construction.

The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing codes and other applicable rules and regulations of the city. All such connection shall be made watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the approving authority before installation. The approving authority shall have the right to inspect the work at any stage of construction, and, in any event, the covers of all building sewer manholes, inspection chambers, cleanouts, and the like shall be watertight and shall be capable of withstanding, without damage or displacement, any traffic load to which they may be subjected. (Ord. No.2597, #1,6-7-77; Ord. No.2877,#1,5-15-79; Code 1967, #35 1/2-21)

# Sec. 33-77. Notification to approving authority prior to covering of work underground; final inspection.

The applicant for the building sewer permit shall notify the approving authority before covering portions of the work to be underground, and when the building sewer is ready for final inspection and connection to the public sewer. The connection and testing shall be made under supervision of the approving authority or his representative. (Ord. No.2597, # 1,6-7-77; Ord. No.2877,#1,5-15-79; Code 1967, #35 1/2-22)

# Sec. 33-78. Guarding of excavations posing hazard to public; restoration of public property; posting of bond.

All excavations for building any sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city. The posting of a bond of appropriate value may be required to safeguard the interest of the city with regard to damage to public property. (Ord. No.2597, #1,6-7-77; Ord. No.2877,#1,5-15-79; Code 1967, #35 1/2-23) Sec. 33-79--33-80. Reserved.

### **DIVISION 5. SYSTEM DISCHARGE AGREEMENTS**

## Sec. 33-81. Required of certain dischargers.

Written agreements shall be required of commercial and industrial dischargers who are subject to additional treatment costs, or have potential for discharge of acidic wastewater, or have a process or processes subject to U.S.E.P.A. categorical standards, or discharge wastewater containing priority pollutants, or discharge substances which may be detrimental to the treatment system, or have flow rates of 25,000 gallons per day or more. Such commercial and industrial dischargers as designated by the approving authority as requiring discharge agreements shall enter into such agreements to have the use of the municipal wastewater treatment facilities and shall not discharge to the system without such agreements. (Ord. No.2597, #1,6-7-77; Ord. No.2877, #1,5-15-79; Code 1967, #35 1/2-24)

#### Sec. 33-82. Application for discharge agreement.

- (a) All contributing industries shall apply for and obtain a discharge agreement before connecting or discharging to the municipal system.
- (b) The application for a discharge agreement shall contain, but not be limited to, the following information: Standard industrial classification; name and address; volume of wastewater to be discharged; wastewater constituents and characteristics; time and duration of discharge; average wastewater flow rates, including daily, monthly and seasonal variations; site plans and floor plans showing all drains and sewers; and description of activities, facilities and plant processes.
- (c) Users seeking a wastewater discharge agreement shall complete and file with the approving authority an application in the form prescribed by the approving authority. (Ord. No.2597,#1,6-7-77; Ord. No.2877,#1,5-15-79; Code1967, #35 1/2-25)

#### Sec. 33-83. Contents, matters subject to agreement.

Wastewater discharge agreements shall be expressly subject to all provisions of articles II and III of this chapter and all other ordinances, regulations, charges and fees administered by the approving authority. The conditions of wastewater discharge agreements shall be uniformly enforced by the approving authority in accordance with such articles, applicable state regulations and promulgated pretreatment standards. Agreements may contain, and are not limited to, the following conditions:

- (a) The unit charge or schedule of charges and fees for the wastewater to be discharged to a community sewer, as outlined in Division 2 of Article III of this chapter.
- (b) The average and maximum permissible wastewater constituents and characteristics.
- (c) Limits on rate and time of discharge or requirement for flow regulation and/or equalization.
- (d) Requirements for installation of inspection and sampling facilities.
- (e) Pretreatment requirements. Effluent limits based on applicable general pretreatment standards in part 403 of the Federal Regulations, categorical pretreatment standards, local limits, and State and local laws.
- (f) Self-monitoring, sampling, reporting, notification and record keeping requirements including an identification of the pollutants to be monitored, sample location, sampling frequency, and sample type, number, types and standards for tests, based on the applicable general pretreatment standards in part 403 of the Federal Regulations, categorical pretreatment standards, local limits, and State and local law.

- (g) Requirements for submission of technical reports or discharge reports and/or maintaining plant records relating to wastewater discharge, as specified by the approving authority, and for affording the approving authority access thereto.
- (h) Mean and maximum emission rates, or other appropriate limits, when incompatible pollutants are proposed or present in the user's wastewater discharge.
- (i) Penalties and damages for violation of the agreement and provisions of articles II and III of this chapter on prohibited discharges, including any per diem charges and damages. Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedules may not extend the compliance date beyond applicable federal deadlines.
- (j) Statement of duration (in no case more than five (5) years.
- (k) Statement of non-transferability.
- (l) Compliance schedules as deemed necessary by the City for meeting local ordinance requirements and/or Federal categorical pretreatment standards. The following conditions shall for compliance schedules apply for meeting categorical pretreatment standards and/or local ordinance requirements:
  - (1) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment facilities required for the Industrial User to meet the applicable categorical Pretreatment Standards.
  - (2) No increment of progress shall exceed nine months.
  - (3) Not later than 14 days following each date in the schedule and the final date for compliance, the Industrial User shall submit a progress report to the Control Authority including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the Industrial User to return the construction to the schedule established. In no event shall more than 9 months elapse between such progress reports to the Control Authority.
- (m) If sampling performed by an Industrial User indicates a violation, the User shall notify the Control Authority within 24 hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the City within 30 days after becoming aware of the violation or sooner if so directed by the City Authorized representatives.
- (n) Other conditions as deemed appropriate by the approving authority to insure compliance with article II and III of this chapter.

(Ord. No. 2597, P, 6-7-77; Ord. No. 2877, #1, 5-15-79; Code 1967, #35 1/2-26)

# Sec. 33-84. Time period of Agreements; modifications and changes, effects on time period; formulation of standard agreement.

Wastewater discharge agreements shall be issued for a specified time period, not to exceed five (5) years. During the life of the agreement, an annual review shall be assessed. It is also the intent of the agreement to committee city to receiving and treating the effluents allowed and stated in the agreement for the period of time indicated and to commit the industry to all the necessary sewer fees and restrictions outlined in the agreement. A discharge agreement may be entered into for a period of less than one year or may be stated to expire on a specific date in the event plant or process changes or modifications are necessary. After all modifications and changes have been made and approved, a new discharge agreement shall be entered into. These modifications and changes must be approved by the approving authority. The user shall be informed of any proposed change in his agreement at least thirty (30) days prior to the effective date of change. The terms and conditions of the discharge agreement shall be subject to modification and change during the life of the agreement at the request of the user and with the consent of the city.

(Ord. No.2597, #1,6-7-77; Ord. No.2877, #1,5-15-79; Code 1967, #35 1/2-27)

#### See. 33-85. Limitation to specific operation of specific user; nontransferable.

Wastewater discharge agreements are issued to a specific user for a specific operation. A wastewater discharge agreement shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation which will significantly affect wastewater characteristics. All commercial and industrial dischargers shall promptly notify the approving authority in advance of any substantial change in volume or character of pollutants in their discharge; especially in regard to any listed hazardous wastes or priority pollutants.

(Ord. No.2597, #1,6-7-77;Ord. No.2877, #1,5-15-79; Code 1967, #35 1/2-28)

#### Sec. 33-86. Revocation of agreements, conditions for.

Any user is subject to having his agreement revoked and sewer service discontinued who willfully violates the conditions of the wastewater discharge agreement or any provision of articles II and III of this chapter, or upon the occurrence of any of the following:

- (a) Failure of a user to factually report the wastewater constituents and characteristics of his discharge.
- (b) Failure of the user to report significant changes in operations which affect wastewater constituents and characteristics.
- (c) Refusal of reasonable access at the user's premises for the purpose of inspection or monitoring the applicable sewage or wastewater system.
- (d) Refusal or failure to pay all appropriate fees or charges. (Ord. No.2597, #1,6-7-77; Ord. No.2877, #1,5-15-79; Code 1967, #35 1/2-29)

## Sec. 33-87. Monitoring facilities, provisions to be outlined in discharge agreement.

Monitoring facilities, in accordance with section 33-107 of this chapter, will be required as outlined in the discharge agreement.

(Ord. No.2597, #1,6-7-77; Ord. No.2877, #1,5-15-79; Code 1967, #35 1/2-30)

#### See. 33-88. Right of inspection; access to premises of approving authority.

The approving authority may inspect the sewage and wastewater facilities of any user to ascertain whether the purpose of articles II and III of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is discharged shall allow the approving authority or its representative ready access at all reasonable times for the purposes of inspection or sampling or in the performance of their duties. The approving authority shall have the right to set up on the user's property such devices as are necessary to conduct sampling or metering operations. Where a user has security measures in force, which would require proper identification and clearance before entry into the premises, the user shall make necessary arrangements with security personnel so that, upon presentation of suitable identification, personnel from the approving authority shall be permitted to enter without delay for the purposes of performing their specific responsibilities.

(Ord. No.2597, #1,6-7-77; Ord. No.2877, #1,5-15-79; Code 1967, #35 1/2-31)

## Sec. 33-89. Availability of information on user to public; use of information accepted as confidential.

All information and data on a user obtained from reports, questionnaires, the agreement applications, permits and monitoring programs, and from inspections shall be available to the public without restriction unless the user specifically requests confidential treatment and is able to demonstrate to the satisfaction of the approving authority that the release of such information would divulge information regarding processes or methods which would be detrimental to the user's competitive position. Information accepted by the approving authority as confidential shall not be transmitted to any other governmental agency by the approving authority until and unless prior and adequate notification is received by the user. Information accepted by the approving authority as confidential shall not be transmitted to the general public by the approving authority unless written permission has been obtained from the user. All information relating to the discharge from a user into the sewer system shall not be confidential information. All such information which is submitted to the approving authority shall be available to the public without restrictions.

(Ord. No.2597, #1,6-7-77; Ord. No.2877, #1,5-15-79; Code 1967, #35 1/2-32)

Sec. 33-90--33-100. Reserved.

#### DIVISION 6. DISCHARGES TO PUBLIC SANITARY SEWERS

Sec. 33-101. Discharges of storm water, groundwater, etc., into sanitary sewer prohibited; exceptions.

No person shall discharge or cause to be discharged any storm water, groundwater, roof runoff, subsurface drainage or uncontaminated cooling water to any sanitary sewer except by permission of and under permit from the approving authority.

(Ord. No.2597, #1,6-7-77; Ord. No.2877, #1,5-15-79; Code 1967, #35 1/2-33)

Cross reference- Connection to sanitary sewer of sources of surface runoff, approval required, #33-75.

- Sec. 33-102. Discharge of storm water and other unpolluted drainage to storm sewers and natural outlets, approval required; Discharges into sanitary sewer system other than through building sewer, permit required.
- (a) Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers or to a natural outlet approved by the regulatory agency. Industrial cooling waters or unpolluted process waters may be discharged, on approval and issuance of an NPDES by the State of Tennessee and approval of the City if to a City storm sewer or natural outlet.
- (b) No person shall discharge any substance directly into a manhole or other opening in a public sewer, other than through an approved building sewer, unless he has been issued a permit by the approving authority. No person shall discharge any holding tank waste into a community sewer unless he has been issued a permit by the approving authority. Unless otherwise allowed by the approving authority under the terms and conditions of the permit, a separate permit must be secured for each separate discharge. This permit will state the specific location of discharge; the time of day the discharge is to occur, the volume of the discharge, and wastewater constituents and characteristics. If an agreement or permit is granted for discharge of such waste into a community sewer, the user shall pay the applicable charges and fees and shall meet such other conditions as are required by the approving authority.

(Ord. No.2597, #1,6-7-77; Ord. No.2877, #1,5-15-79; Code 1967, #351/2-34)

#### Sec. 33-103. Discharge of certain harmful wastes prohibited.

No person shall discharge or cause to be discharged any of the following described contaminated waters to any public sanitary sewers:

(a) Any wastewater containing petroleum oil (gasoline, benzene, naptha, fuel oil), no biodegradable cutting oil, products of mineral oil origin or any other pollutants which cause interference or pass-through, or create afire or explosion in the POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using the test methods specified in 40 CFR 261.21,

- as determined by a Pensky-Martens Closed Cup Tester, using the test method specified in ASTM Standard D-93-79 or D-93-80K or a Seta flash Closed Cup Tester, using the test method specified in ASIM Standard D-3278-78 and pollutants which cause an exceedance of 10% of the lower explosive limit (LEL) at any point within the POTW.
- (b) Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure personnel, cause workers to have acute health or safety problems, or interfere with any sewage or wastewater treatment process or any sanitary sewer system, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage or wastewater treatment plant.
- (c) Any contaminated waters or wastes having a pH lower than 5.5 or any other corrosive property capable of causing damage or hazard to the structures, equipment, conveyances, and personnel of the sewage works or interfering with the operation of the treatment facility. The pH discharge limit is an instantaneous reading of any discharge into the sanitary sewer and not an average of any kind, unless specified. No wastewaters having a pH of higher than 10.0 standards units can be discharged to the sanitary sewer without prior approval by the City.
- (d) Any wastes or wastewaters shall not include solid or viscous substances in quantities of such size as to be capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the wastewater facilities such as, but not limited to, ashes, bones, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, oil, grease, underground garbage, whole blood, paunch manure, hair and fleshing, entrails and paper dishes, cups, milk containers, etc. either whole or ground by garbage grinders. Should blood, tissue or other prohibited body parts be unavoidably discharged into the sanitary sewer then such discharge must be accompanied by or immediately followed with a liquid disinfectant, such disinfectant may include bleach.
- (e) Any trucked or hauled pollutants, except at discharge points designated by the City of Memphis' POTW.(Ord. No.2597, #1,6-7-77; Ord., No. 2597,#1,6-7-77; Ord No.2877,#1,5-15-79; Code 1967,

(Ord. No.2597, #1,6-7-77; Ord., No. 2597,#1,6-7-77; Ord No.2877,#1,5-15-79; Code 1967, #35 1/2-35)

## Sec. 33-104. Discharge of certain harmful wastes restricted, approval required.

(a) No person shall discharge or cause to be discharged the following described substances, materials, contaminated waters, or wastes if it appears likely, in the opinion of the approving authority, that such wastes harm either the sanitary sewers, sewage treatment process, or equipment, have an adverse effect on the receiving streams, or can otherwise endanger life, limb or public property, or constitute a nuisance'. In forming his opinion as to the acceptability of these wastes, the approving authority will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of compatibility of the particular materials involved

with the treatment capabilities of the authority's existing or contemplated treatment works, and other pertinent factors. The limitations or restrictions of materials or characteristics of waste or wastewaters discharged to the sanitary sewer which shall not be violated without a variance being granted as provided for under paragraph (b) of this section are summarized in Table I and discussed as follows: Conditions at the influent of the treatment plant which will be used as guidance in determining acceptability are presented in Table 2.

- (1) Any liquid or vapor having a temperature higher than one hundred fifty (150) degrees Fahrenheit (sixty-five (65) degrees centigrade).
- (2) Any water or waste containing fats, wax, grease, or oils of hydrocarbon or petroleum origin in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150) degrees Fahrenheit (zero and sixty-five (65) degrees centigrade). Substance of the above nature shall be treated to reduce the concentration to a level of one hundred (100) mg/l.
- (3) Any waste that has not been properly shredded. The installation and operation of any waste grinder equipped with a motor of three-fourths horsepower or greater shall be subjected to the review and approval of the approving authority.
- (4) Any waters or wastes containing strong acid, iron pickling wastes, or any waters or wastes containing concentrated plating solutions whether neutralized or not, except by permission of the approving authority.
- (5) Any contaminated waters or wastes containing iron, chromium, copper, zinc, other heavy metals, or toxic substances to such degree that any such discharge exceeds the values in Table I or such material received in the composite sewerage at the sewerage plant exceeds the limits established by the approving authority for such material, as shown in Table 2, unless a variance is obtained as described in paragraph (b) of this section.
- (6) Any waters or wastes containing phenols, to such degree that any such discharge in the composite sewerage at the sewerage treatment plant exceeds the limits established by the approving authority for such material as shown in Table 2, unless a variance is obtained as described in paragraph (b) of this section.
- (7) Any radioactive wastes or isotopes of long half-life (over one hundred (100) days) without special permit. The radioactive isotopes (I 131 and P 32) used at hospitals are not prohibited if properly diluted at the source.
- (8) Materials, which exert or cause:
  - a. Concentrations of inert suspended solids (such as, but not limited to, fuller's earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to

- sodium chloride and sodium sulfate) which will cause obstruction to the flow in sewers, damage to the sewer system, or interference with the sewage treatment plant.
- b. BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute interference in the sewage treatment works.
- c. Volume of flow or concentration of wastes constituting "Slugs" as defined herein.
- (9) Wastewater containing objectionable substances, which are not amendable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of the regulatory agency.
- (10) Any wastewater that may cause the wastewater treatment facility effluent or any product of the treatment process residues, sludges, or scums to be unsuitable for reclamation and reuse or to interfere with the reclamation process.
- (11) Any wastewater that could have a detrimental environmental impact or create a nuisance in the waters of the United States of America.
- (12) Any wastewater that could cause excessive collection or treatment costs or may use a disproportionate share of the agency facilities.
- (13) Wastes not permitted to be discharged into the municipal system and not otherwise adequately treated and discharged, or recycled, must be transported to a state approved disposal site by a permitted waste hauler.
- (14) Any wastewater, which causes hazard to human life or creates a public nuisance.
- (15) Any wastewater containing motor oils or lubricants removed from vehicles or other machinery.
- (16) Any wastewater where there is a significant likelihood of producing toxic effects to the biota in the receiving water of the treatment plant or the treatment plant's effluent.
  - In addition, the following activities are prohibited:
- (17) No person shall discharge wastewater into street inlets or through sewer manholes.
- (18) No person who generates wastewater at one property shall discharge it at another property without approval from the Approving Authority.
- (19) No person shall store or handle any material including hazardous substances defined by CERCLA, in any area draining to the city sewer system, because discharge or leakage from such storage or handling may create an explosion hazard in the sewer system or treatment plant or may constitute a hazard to human beings or animals or

the receiving stream, or in any other way may have a deleterious effect upon the wastewater treatment facilities. Such storage or handling shall be subject to review by the City, and shall require a spill control plan with reasonable safeguards to prevent discharge or leakage of such materials into the sewers.

When it is determined that a User is contributing to the POIW amounts of wastewater described in paragraphs 1 through 16 or is involved in activities described in paragraphs 17 through 19 so as to interfere with the operation of the POTW then the Approving Authority shall: 1) advise the User(s) of the impact of the contribution on the POT14; and 2) develop effluent limitation(s) for such user to correct the interference with the POTW without the need to amend these regulations.

- (b) Notification of the discharge of hazardous wastes.
  - (1) The Industrial/Commercial User shall notify the City of Memphis' POTW, the EPA Regional Waste Management Division Director, and State of Tennessee hazardous waste authorities in writing of any discharge into the POTW of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR part 261. Such notification must include the name of the hazardous waste asset forth in 40 CFR part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the Industrial User discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the Industrial User: An identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the waste stream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve months. All notifications must take place within 180 days of this rule. Industrial users who commence discharging after the effective date of this rule shall provide the notification no later than 180 days after the discharge of the listed or characteristic hazardous waste. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted under 40 CFR403.12 (j). The notification requirement in this section does not apply to pollutants already reported under the self-monitoring requirements of 40 CFR 403.12 (b), (d), and (e).
  - (2) Dischargers are exempt from the requirements of paragraph (b) (1) this section during a calendar month in which they discharge no more than fifteen kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and261.33 (e). Discharge of more than fifteen kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), required a one-time notification.
  - (3) In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the Industrial User must notify the City of Memphis' POIW, the EPA Regional

Waste Management Waste Division Director, and the State of Tennessee hazardous waste authorities of the discharge of such, substance within 90 days of the effective date of such regulations.

- (4) In the case of any notification made under paragraph (b) of this section, the Industrial User shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
- (c) For industries covered under a discharge agreement, the aforementioned materials or characteristics of waste or wastewater discharge limitations shall be determined by the City and incorporated into such agreement. Parameters and conditions identified in Table 2 shall be used as guidance in establishing monitoring requirements and in allowing exceptions or variances to Table 1. Such exception or variance will be determined during the preparation and periodic review of the sewer use agreement. Consideration of a variance shall be based on the following criteria as a minimum:
  - (1) Age, location, land availability, and type of manufacturing processes employed.
  - (2) Total mass of pollutant discharged by the industry.
  - (3) Volume of industrial waste in proportion to the total wastewater flow in the system.
  - (4) Energy requirements of the application of control and treatment technology, but only if the discharger demonstrates that less energy consumptive alternative control technology is not available.

In no case shall a variance be granted for those parameters defined by federal pretreatment regulations as "Prohibited Discharges".

TABLE I

MAXIMUM EFFLUENT STANDARDS FOR DISCHARGE
OF WASTE INTO THE MUNICIPAL SEWERAGE SYSTEM

Constituent	Daily Average* Maximum Concentration mg/l	Instantaneous Maximum Concentration mg/l
Biochemical Oxygen Demand	(1)	(1)
Settleable Solids (ml/l)	(1)	(1)
Total Suspended Solids	(1)	(1)
Nitrogen (total Kjeldahl)	(1)	(1)
Arsenic	1.0	2.0
Cadmium (total)	(2)	(2)
Chromium (hexavalent)	1.0	2.0
Chromium (total)	5.0	10.0
Copper (total)	5.0	10.0
Cyanide (oxidizable)	2.0	4.0
Cyanide (total)	4.0	8.0
Lead (total)	(2)	(2)
Mercury	(2)	(2)
Nickel (total	5.0	10.0
Zinc (total)	5.0	10.0
Ammonia NH3-N	125 ppm	250 ppm

<sup>\*</sup> Based on 24-hour flow-proportionate composite sample

<sup>(1)</sup> Consistent with treatment plant capacity (2) Cadmium, mercury, and lead discharges are severely restricted due to limitations placed on the disposal of sewage sludge containing cadmium, mercury, and/or lead. Actual allowable discharge concentrations for these constituents will be determined on a case-by-case basis.

No person shall discharge wastewater containing any of the materials listed herein into the municipal sewer system or shall have any connection to the municipal sewer system without obtaining written permission from the Approving Authority.

Acrylonitrile 3,3-Dichlorobenzidene

Alpha BHC

Aldrin 1,1-Dichloroethane
Aluminum 1,2-Dichloroethane
Barium 1,1-Dichloroethlyene

Benzene Dichloroethyl ether (Bis (2-chloroethyl)

Benzo (a) pyrene 1,2-Cis,dichloroethylene
Benzotrichloride 1,2 trans,dichloroethylene
Beryllium 1,2-Dichloropropane
Bis(2-ethylhexyl)phthalate (DEHP) 1,3-Dichloropropane
1,3-Dichloropropane 2,2-Dichloropropane
Bromodichloromethane 1,1-Dichloropropane
Bromoform 1,3-Dichloropropene

Carbon tetrachloride M-Dichlorobenzene
Chlordane O-Dichlorobenzene
Chlorobenzene Para-Dichlorobenzene

Chlorodibromomethane
Chloroform
Chloroform
Dieldrin
diisobutylenes
Chloroform
Dimethylnitrosamine
2,4-Dinitrophenol
O-Chlorotoluene
P-Chlorotoluene
Ethyl benzene
Cumene
Heptachlor

DDT/DDE/DDD Hexachlorobenzene

1,2-Dibromo-3-Chloropropane

Dibutylphthalate

Phenols

1,4-Dichlorobenzene(p)

Hexachlorobutadiene Tin
Titanium

Isopropylbenzene Toluene

Lindane Toxaphene (chlorinated camphene)

Methyl chloride (Chloromethane) 1,1,2-Trichloroethane
Molybdenum Trichloroethylene
PCB-1260 1,2,3-Trichloropropane

Vinyl chloride 0,M,P-Xylenes

Pyrene 1,1,1,2-Tetrachloroethane

Octachlorodibenzo-P-Dioxin

Octachlorodibenzofuran

Total Heptachlorodibenzo-P-Dioxins

Total Heptachlorodibenzofurans

Total Hexachlorodibenzo-P-Dioxins

Total Hexachlorodibenzofurans

Total Pentachlorodibenzo-P-Dioxins

Total Pentachlorodibenzofurans

Total Tetrachlorodibenzo-P-Dioxins

Total Tetrachlorodibenzofurans

1,2,3,4,6,7,8-Heptachlorodibenzo-P-Dioxin

1,2,3,4,6,7,8-Heptachlorodibenzofuran

1,2,3,4,7,8-Hexachlorodibenzo-P-Dioxin

1,2,3,4,7,8-Hexachlorodibenzofuran

1,2,3,4,7,8,9-Heptachlorodibenzofuran

1,2,3,6,7,8-Hexachlorodibenzo-P-Dioxin

1,2,3,6,7,8-Hexachlorodoibenzofuran

1,2,3,7,8-Pentachlorodibenzo-P-Dioxin

1,2,3,7,8-Pentachlorodibenzofuran

1,2,3,7,8-Pentachlorodibenzofuran

1,2 3 7 8 9-Hexachlorodibenzo-P-Dioxin

1,2,3,7,8,9-Hexachlorodibenzofuran

2,3,4,6,7,8-Hexachlorodibenzofuran

2,3,4,7,8-Pentachlorodibenzofuran

2,3,7,8-Tetrachlorodibenzo-P-Dioxin

2,3,7,8-Tetrachlorodibenzofuran

Approving Authority reserves the right to modify this list of materials prohibited from entering the POTW as may become necessary.

TABLE 2
GUIDANCE CONCENTRATIONS IN MUNICIPAL SEWAGE
TREATMENT INFLUENT

Parameter	South Plant Average Influent Concentrations	North Plant Average Influent Concentrations
	mg/l	mg/l
Biochemical Oxygen Demand	(1)	(1)
Settleable Solids (ml/l)	(1)	(1)
Total Suspended Solids	(1)	(1)
Nitrogen (total Kjeldahl)	(1)	(1)
PH	6-9	6-9
Temperature	(2)	(2)
Arsenic	<del>-</del>	<del>-</del>
Cadmium	0.033	0.033
Chromium (hexavalent)	-	-
Chromium (total)	0.375	0.375
Cyanide (oxidizable)	-	-
Cyanide (total)	0.605	0.605
Lead	0.25	0.25
Mercury	0.0042	0.0042
Nickel	0.273	0.273
Zinc	1.0	1.0
Copper	0.5	0.5
Silver	0.0294	0.0294
Phenols	4.5	4.5
Oil & Grease	100.00	100.00
Toluene	0.429	2.0
Phenol	1.273	0.909
Methylene Chloride	0.25	.025
Benzene	0.100	.0043
1,1,1-Trichloroethane	0.5	0.25
Ethyl Benzene	0.04	.004
Carbon Tetrachloride	0.075	0.075
Chloroform	0.224	0.368
Tetrachloroethylene	0.139	0.139
Trichloethylene	0.150	0.150
1,2 Transdichloroethylene	0.030	0.030
Naphthalene	0.312	0.312
Bis (2 Ethyl Hexyl Phthalate)	0.105	0.105
Butyl Benzl Phthalate	0.333	0.333
Di-n-butyl Phthalate	0.0625	0.0625
Diethyl Phthalate	0.222	0.222

MASS LIMITATIONS – No individual shall discharge a mass loading of the compounds detailed in Table 2 more than 15% of the average allowable influent loading on a daily average maximum level. When comparing these mass limitations and the concentration based on limitations in Table 1, whichever limitation is more restrictive will apply, unless a variance is obtained as described in paragraph (c) of this section.

- (1) Consistent with treatment plant capacity as determined by the Division of Public Works.
- (2) Temperature always to be less than 104 degree Fahrenheit (40 degrees Centigrade. Ord.No.2597 1,6-7-77; Ord. No.2877,#1,5-15-79; Code 1967,#35 1/2-36; Ord. No. 3381, #1(1),6-12-84)

# Sec. 33-105. Discretionary actions of approving authority with respect to restricted discharges.

- (a) If any waters or wastes are discharged or are proposed to be discharged to the public sanitary sewers, which waters contain the substances or possess the characteristics enumerated in section 33-104 of this article and which, in the judgment of the approving authority, are incompatible with the capacities of the treatment works and may therefore have a deleterious effect upon the sewage works, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute) a public nuisance, the approving authority shall do one of the following: (1) Reject the wastes;(2) Require pretreatment or an acceptable condition for discharge to the public sanitary sewers; (3) Require control over the quantities and rate of discharge; (4) Require payment to cover the added cost of handling and treating the wastes, as provided in division 2 of article III of this chapter.
- (b) If the approving authority permits the pretreatment or equalization of waste flows, the design and installation of any no process pretreatment or flow equalization system installed in connection therewith shall be subject to the review and approval of the approving authority and subject to the requirements of all applicable ordinances and laws. However, this section shall not be interpreted as granting the approving authority any rights to inspect or to require the approval of manufacturing process changes instituted for the purpose of correcting pretreatment or flow equalization problems.
  - (c) Interceptors, traps, or separators shall be provided by industrial and commercial dischargers (in addition to those cases specified in section33-104 (a)(2) when, in the opinion of the approving authority, they are necessary for the proper handling of water or waste containing such materials as grease, sand, flammable liquids, substances which may solidify or become viscous in the system, or other harmful ingredients. In maintaining these interceptors, the owner shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates and means of disposal, which are subject to review by the approving authority. Any removal and hauling of the collected materials not performed by the owner's personnel must be performed by currently licensed waste disposal firms.

(Ord.No.2597,#1,6-7-77; Ord. No.2877,#1,5-15-79; Code 1967, #35 1/2-37)

## Sec. 33-106. Maintenance and inspection of preliminary treatment or flow equalization facilities.

Where preliminary treatment or flow equalization facilities are required for any water or wastewater, they shall be maintained continuously and satisfactorily and in effective operation by the owner at his expense and shall be subject to periodic inspection by the approving authority. The owner shall maintain and make available, as requested, operating records as prescribed by the approving authority.

(Ord. No.2597,#1,6-7-77; Ord. No.2877,#1,5-15-79; Code 1967, #35 1/2-38)

## Sec. 33-107. Control facilities for sampling and observation of industrial wastes.

When required by the approving authority, the owner of any property serviced by a sewer carrying industrial wastes shall install a suitable control facility together with such necessary meters and other appurtenances in the sewer to facilitate observation, sampling and measurement of the wastes. As a minimum, those industries with an average daily maximum BOD5 of ten thousand (10,000) pounds per day or greater and/or with concentrations of one or more of the incompatible waste constituents listed in Table I of section 33-104shall install a monitoring manhole. Those parameters identified in Table 2 of section 33-104 shall be used as guidance in developing the monitoring program. The facility, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the approving authority. The facility shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times. Plans for such facilities for the installation of control and related equipment must be approved by the approving authority before construction is begun.

(Ord. No.2597, #1,6-7-77; Ord. No.2877,#1,5-15-79; Code 1967, #35 1/2-39)

## Sec. 33-108. Measurement and testing methods.

All measurements and tests and analyses of the characteristics of waters and wastes to which reference is made in articles II and III of this chapter shall be determined in accordance with the current edition of Standard Methods for the Examination of Water and Waste Water, published by the American Public Health Association, or as specified by the Division of Public Works and shall be determined at the control facility provided or upon suitable samples taken at such control facility. Laboratory procedures shall be periodically reviewed by the approving authority and appropriate modifications implemented by the user where unacceptable procedures are identified. In the event that no special facility has been required, the control facility shall be considered to be the nearest downstream manhole in the public sanitary sewer to the point at which the sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property. For users without a sewer use agreement, the particular analyses involved will determine whether a twenty-four-hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended-solids analyses are obtained from twenty-four (24) hour composites of all outfalls whereas pHs are determined from

periodic grab samples. Those users operating under a sewer use agreement will have the method, sample point, and frequency of sampling stated in the agreement. (Ord.No.2597,#1,6-7-77; Ord. No.2877,#1,5-15-79; Code 1967, #35 1/2-40)

#### See. 33-109. Alternate databases for determination of waste characteristics.

Until an adequate analysis of a representative sample of the user's waste has been obtained, the approving authority may, for the purpose of article II and 111, make a determination of the character and concentration of the waste by using data based on analyses of similar processes or data for this type of business that are available. This method, if selected by the approving authority, shall continue until an adequate analysis has been made. (Ord.No.2597,#1,6-7-77; Ord. No.2877,#1,5-15-79; Code 1967, #35 1/2-41)

#### Sec. 33-110. Accidental and Slug discharges.

Each User shall provide protection from accidental and/or slug discharge of prohibited materials or other substances regulated by these regulations. Facilities to prevent accidental and/or slug discharge of prohibited material shall be provided and maintained at the owner of User's own cost and expense. Detailed plans showing facilities and operation procedures to provide this protection shall be submitted to the Department for review, and shall be approved by the Department before construction of the facility. The plan shall contain, at a minimum, the following elements:

- (a) Description of discharge practices, including non-routine batch discharges;
- (b) Description of stored chemicals;
- (c) Procedures for immediately notifying the POTW of slug or accidental discharge, including any discharges that would violate a prohibition undersea. 33-103, with procedures for follow-up written notification within five days;
- (d) If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operation, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (include solvents) and/or measure and equipment for emergency response.

All existing Users shall complete such a plan within 3 months of notice to do so by the Department. No User who commences a new discharge to the P0TW after effective date of these regulations shall be permitted to introduce pollutants into the system until accidental and/or slug discharge procedures have been approved by the City. Review and approval of such plans and operating procedures shall not relieve the Industrial User from the responsibility to modify the User's facility as necessary to meet the requirements of these regulations. In the case of accidental discharge, it is the responsibility of the User to immediately notify the Department of the incident. The notification shall include volume of discharge, duration of event, and corrective actions.

Written Notice: Within five (5) days following an accidental discharge the User shall submit to the Department a detailed written report describing the cause of the discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the User of any fines, civil penalties, or other liability which may be imposed by these regulations or other applicable law.

Notice to Employees. A notice shall be permanently posted on the User's bulletin board(s) or other prominent places advising employees whom to call in the event of a dangerous discharge. Employers shall insure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.

## Sec. 33-111. Permit to Discharge Hauled Wastes:

In accordance with federal regulation, 40 CFR 403.5(b)(8), trucked or hauled pollutants shall not be introduced into a POTW except at the discharge points designated by the POTW.

To comply with these regulations no person may discharge hauled wastewater of any type into the sewer system except at a discharge point designated by the City of Memphis and with proper license, approval and manifest. Alternate site locations must be approved or designated by the Director of Public Works of the City of Memphis or his designate. No hauled wastewaters shall be discharged at any point in any sewer system which is treated by the City of Memphis Wastewater Treatment Plants except at the designated discharge point. Sewer systems treated by the City of Memphis Treatment Plants include all sewer systems located in Memphis, and Germantown, and certain systems located in Bartlett, Lakeland, unincorporated Shelby County, unincorporated Desoto County, Mississippi, Southaven, Mississippi, and Horn Lake, Mississippi.

Any person engaged in the hauling of wastewater to the City of Memphis' designated point must obtain a waste hauler permit. Waste hauler permits can be obtained from the Memphis and Shelby County Plumbing Code Enforcement Department. Permitted haulers shall be responsible for complying with all the terms and conditions contained in the permit, in addition to Section R.5 of the Septic Cleaner Regulations of the Memphis and Shelby County Plumbing Code. Additionally, if the waste hauler intends to use the City of Memphis disposal site, the hauler must obtain a disposal agreement from the City of Memphis Division of Public works and shall be responsible for complying with all the terms and conditions contained in the agreement and the City of Memphis Sewer Use Ordinance. All Trucks must be marked with the company name, phone number, waste hauler permit number, city and state. The tank must also be marked with the company name and capacity of the tank in gallons.

Hauled wastewaters permitted for disposal at the designated discharge point with properly completed manifest, but without prior written approval, include only residential household septic tanks, restaurant grease traps, drive-through car wash traps, and portable toilets. These

four types of wastes will be accepted at the discharge point for a charge based on a rate established by the Division of Public Works in accordance with the gallon capacity of the truck, notwithstanding the originating point of the wastewater.

No industrial wastewater and/or wastewater of any kind originating from an industrial entity located in the City of Memphis sewer service area may be picked up for disposal unless the entity producing the waste has a letter of approval from the City of Memphis Environmental Department. The generator of the waste must write a letter containing all required information requesting approval to dispose of the waste and must receive the letter of approval prior to the pick up of the waste. A copy of the approval letter and properly completed manifest must accompany the permitted waste hauler during the disposal at the City of Memphis' designated discharge point. The disposal fee will be a charge based on a rate established by the Division of Public Works in accordance with the gallon capacity of the truck.

Special permits can be obtained, upon approval by the City of Memphis, for the disposal of portable toilet wastewater at specific locations within the City of Memphis sewer service area. No other hauled wastewater shall be disposed of at these locations. The disposal fee will be based on the domestic fee set in section 33-131 of this ordinance.

Industrial wastewaters and sludges generated outside the City of Memphis sewer service area will have to be evaluated on a case by case basis. The disposal fees for such waste will be based on the type of wastewater generated and must be agreed upon with the generator of the waste and the City of Memphis prior to transporting the waste. After the City and the waste generator have agreed in a formalized document, a letter of approval must be issued, and a copy of the approval letter must accompany the licensed waste hauler during the disposal in addition to the properly completed manifest. The disposal fee will be determined on a case by case basis for industrial wastewaters and sludges from outside the City of Memphis sewer service area.

No hazardous waste may be picked up from any source for disposal at the City of Memphis' designated discharge point. All hauled wastewater must have a pH of 5.5 standard units or above and have been certified by the originator of the wastewater as containing no compounds in concentrations that would make the wastewater classified as a hazardous waste. Decanting or back flushing of the grease trap or its wastes for the purpose of reducing the volume to be hauled is prohibited.

Failure to renew and/or obtain a waste hauler permit or recurrence of late payment of disposal fees will result in the waste hauler not being allowed to use the City of Memphis' designated discharge point for disposal.

#### a) Violations and Enforcement Actions.

A violation of any of the foregoing shall result in enforcement actions which may include administrative fines, withdrawal of the privilege to use the City of Memphis wastewater system, and suspension of the existing waste hauler permit and/or prohibition from obtaining a new waste hauler permit.

Any person who willfully and negligently violates permit conditions shall be subject to criminal penalties imposed by the State of Tennessee and/or the United States.

# b) Specific Charge for Hauled Waste Transported for Disposal at the Discharge Point Designated by the City of Memphis.

The disposal fee charge for hauled wastewater originated from residential household septic tanks, restaurant grease traps, drive through car washes, portable toilets, and industrial wastewater and sludges generated in the City of Memphis sewer service area shall be a flat rate based upon the volume of the truck (tank capacity). All customers will be charged on a volumetric charge based on rate in cents per gallon of wastewater multiplied by the capacity in gallons of the truck hauling the wastewater. The rate will be reviewed and adjusted if necessary annually by the Division of Public Works. The disposal fee will be determined on a case-by-case basis for industrial wastewaters and sludges from outside the City of Memphis sewer service area.

#### Sec. 33-112. Food Establishment Wastewater.

# 33-112-01. Waste Disposal – Construction Plans Approval and Permit Required.

- A. Grease Trap Required: All food service establishments discharging wastewater to the City's wastewater facilities shall install, operate, and maintain a sufficiently sized oil and grease, water and solids separator (hereinafter called grease trap) necessary to prevent the accumulation of oil and grease in the sewer collection system. Approval of the City of Memphis, Division of Public Works, shall be required during the construction plans approval process.
- B. Design Criteria: All grease traps used in conjunction with food service establishments shall have the capacity of 15 gallons per seat of dining capacity, except that no single grease trap shall be smaller than 750 gallons or larger than 3,000 gallons. In certain cases, multiple grease traps may be utilized. Alternative treatment technologies shall be considered on a case-by-case basis for food establishments that are to be located in an existing building where a large grease trap is not feasible.

C. General Permit to Discharge: All food establishments shall obtain a permit to discharge to the wastewater system from the Approving Authority. This permit shall be posted on the premises and renewed as needed.

## 33-112-02. Subject to Industrial Wastewater Limitations.

Wastewater discharged into public sewers from facilities engaged in preparing food for consumption by the public shall be subject to the limitations set forth in Sections 33-103 and 104 of this ordinance and such other conditions and requirements as are set forth in Section 33-112-03. The Permit for Food Establishment Wastewater Discharge shall be subject to all provisions of this ordinance and all other regulations, user charges, and fees established from time to time by resolution of the Council of the City of Memphis.

## 33-112-03. Permit for Food Establishment Wastewater Discharge.

The Permit for Food Establishment Wastewater Discharge may require pretreatment of wastewater before discharge, restriction of peak flow discharges, discharge of certain wastewater only to specified sewers of the City, relocation of point of discharge, prohibition of discharge of certain wastewater components, restriction of discharge to certain hours of the day, payment of additional charges to defray increased costs of the City created by the wastewater discharge, and such other conditions as may be required.

## 33-112-04. Permit Application.

Persons seeking a Food Establishment Wastewater Discharge Permit shall complete and file with the Approving Authority, an application in the form prescribed by the Approving Authority. The applicant may be required to submit, in units and terms appropriate for evaluation, the following information:

Name and address of applicant.

Volume of wastewater to be discharged.

Time of daily food preparation operations.

Description of food preparation, dining room capacity by seats, number of employees, and size of kitchen.

Any other information as may be deemed by the Approving Authority to be necessary to evaluate the permit application.

The Approving Authority will evaluate the data furnished by the applicant and may require additional information. After evaluation and acceptance of the data furnished, an on-site inspection of the waste discharge system, treatment systems or other systems relating to the waste discharge may be required. The Approving Authority may then issue a Food Establishment Wastewater Discharge Permit subject to the terms and conditions provided herein.

#### 33-112-05. Duration of Permits.

Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. If the permittee is not notified by the City thirty (30) days prior to the expiration of the permit, the permit shall be extended one additional year. The terms and conditions of the permit may be subject to modification and change by the City during the life of the permit as limitations or requirements as identified in Sections 33–103 and 104 are modified and changed. The permittee shall be informed of any proposed changes in his permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

### 33-112-06. Transfer of Permit.

Food Establishment Wastewater Discharge Permits shall be issued only for specific use for a specific operation. Any sale, lease, transfer, or assignment of the premises or operation for which the permit was issued shall require a new permit to be issued. Any new or changed conditions of operation shall require a new permit to be issued.

### 33-112-07. Revocation of Food Establishment Wastewater Permit.

The Approving Authority may revoke the permit of any permittee who is found to be in violation of this ordinance or who:

Fails to install grease pretreatment devices as required by permit;

Fails to fulfill reporting requirements or pretreatment maintenance as required by permit;

Refuses reasonable access to the permittee's premise for the purpose of inspection or monitoring; or

Violates conditions of the permit.

## 33-112-08. Grease Pretreatment Required.

Permittee shall make wastewater acceptable under the limitations established herein before discharging to any public sewer. All permittees shall be required to install an approved type grease pretreatment device in the waste line leading from the food preparation area, or from sinks, drains, appliances, and other fixtures or equipment used in food preparation or cleanup where grease may be introduced into the sewerage system. Such grease pretreatment devices shall be installed to remove grease from wastewater and shall be maintained in efficient operating conditions by periodic removal of the accumulated grease. No such collected grease shall be introduced into any drainage piping or public sewer.

Each permittee shall also be required to provide a collection drum or container for the purpose of physically segregating oils, greases, and greasy solids. Permittees shall

establish procedures for personnel to practice maximum segregation of oils, greases, and greasy solids to the collection drum or container prior to washing and other water cleaning, which goes into sewers. The permittee shall be responsible for the proper removal and disposal by appropriate means of the material captured from either grease pretreatment devices on wastewater lines or the collection drum for segregating oils, grease, and greasy solids.

## 33-112-09. Maintenance Reports.

The Approving Authority shall require the permittee to keep records of grease pretreatment device cleaning, maintenance and grease removal on site. The Approving Authority may require the permittee to provide results of periodic measurements of its discharge, which is to include chemical analysis of oil and grease content. Permittees shall allow the City or its representative ready access at all reasonable times to all parts of the premises for purposes of sampling and inspections.

# 33-112-10. Penalty for Violation and Civil Liability.

Any person(s) discharging wastewater in violation of the Food Establishment Wastewater Discharge Permit is subject to fines, penalties, cost recovery, injunction, termination of sewer service, permit revocation, and/or such other remedies as are available to the Approving Authority under section 33-173 of the Sewer Use Ordinance.

Sec. 33-113—33-125 Reserved

# ARTICLE III. ADMINISTRATION OF WASTEWATER TREATMENT FACILITIES\*

## **DIVISION 1. GENERALLY**

# Section 33-126. Damaging sewerage works, etc.; maintaining program integrity; accidental spills.

- (a) No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance, or equipment which is a part of the sewerage works. Any person violating this provision shall be subject to immediate arrest, and shall be guilty of misdemeanor punishable as provided in section 1-8 of this Code of Ordinances, and shall be responsible for correcting such damages.
- (b) If public sewer becomes obstructed or damaged because of any substances improperly discharged into it, the person or persons responsible for such discharge shall be billed and shall pay for the expenses incurred by the city in cleaning out, repairing, or rebuilding the sewer.
- (c) No unauthorized person shall enter into or alter any manhole or similar appurtenance of any public sewer, put anything therein, or interfere therewith. No person shall insert or place in any public sewer, manhole or other appurtenance thereof any sticks, rubbish or other materials which such sewer manhole or appurtenance thereof was not intended to receive.
- (d) The approving authority shall have the authority to implement a program for acquiring the necessary qualified personnel to perform all tasks related to all wastewater functions to insure the integrity of the total program.
- (e) In order to insure the integrity of the wastewater treatment facilities at a high level and protect the treatment process from unacceptable flows, any person causing an accidental spill shall notify the approving authority as to its nature, relating its quantity and the time of such spill, so that action may be taken at the wastewater treatment facility to deal with any problems which the incoming flow may create.

Sec. 33-127--33-130. Reserved.

+ Cross reference - Administration generally, Ch.2.

## **DIVISION 2. SEWER FEES AND CHARGES**

Sec. 33-131. Established; bases for determination.

- (a) Requirements generally. In accordance with Public Law 92-500 and Title 40, Chapter 1, Subchapter B, Part 35, Subpart E, Section 35.925-11, which requires the city to implement a wastewater treatment user's charge, each user will pay its proportionate share of the cost for operation and maintenance of the total treatment works. Direct and incidental costs to the city, including, but not limited to, administrative, technical and legal expenses, shall be considered a part of the cost of operations and maintenance of the total treatment works. There shall be two (2) types of charges: The first type of charge is volumetric charge; the second is a charge for treating wastewater, which has an excessive strength.
- (b) Sewer service charge. The sewer service charge shall be made up of two (2) types of charges.
  - (1) Volumetric charge. All customers will be charged a volumetric charge based on the equivalent strength of domestic sewage (BOD5 of two hundred fifty (250) milligrams per liter, SS of three hundred (300) milligram per liter). Since seven and forty-eight one hundreds (7.48) gallons equals one cubic foot, one thousand (1,000) gallons equals 133.689 cubic feet (cf) or one thousand (1,000) gallons equals 1.33629 hundred cubic feet (cf). The volumetric charge per one thousand (1,000) gallons shall be based on the following formula:

$$VC(1,000) = 1,000 [1/Q(T(Q)) + 1/Q {(T(B)B(R))/B + (T(S)S(R))/S}]$$

The factors in formula are based on a projected three-year average. Due to the annual debt, service, capital costs, treatment and operations, and maintenance cost, the volumetric charge will be 87.5 cents per one thousand (1,000) gallons of flow until changed by amendment to this section. A residential maximum volume fee of eighteen dollars (\$18.00) and a minimum of two dollars and twenty-five cents (\$2.25) per month per individual dwelling unit is herewith established.

Commencing and retroactive to July 1, 2004, the 87.5 cents flow charge fee shall be assessed against the name in which a meter has been installed; provided, further however, in the case of multifamily dwellings, a portion of this cost may be recovered through a monthly flat rate per customer charge. The charge, as determined by the Director of Public Works, shall not exceed three dollars and seventy-five cents (\$3.75) per monthly flat rate charge per customer. Amounts collected through any monthly flat rate charge shall be credited to the appropriate master meter flow charge fee. Billing of any such cost shall be made in accordance with Section 33-156.

+ Cross reference-Taxes and licenses generally, Ch.36.

Commencing July 1, 2004, all industrial customers assigned an industrial discharge agreement will be charged a sewer fee of 87.5 cents per one thousand (1,000) gallons of flow for the first ten million gallons per month discharged by each industrial customer. For volumes in excess of ten million gallons per month, each industrial customer will be charged a volumetric sewer fee according to the following schedule:

From July 1, 2004 through December 31, 2004: 61.3 cents per 1,000 gallons

From January 1, 2005 through December 31, 2005: 65.6 cents per 1,000 gallons

From January 1, 2006 through June 30, 2006: 74.4 cents per 1,000 gallons

Beginning July 1, 2006: 87.5 cents per 1,000 gallons

The above industrial sewer fee schedule will remain in effect until changed by amendment to this section.

Effective 1 July 2004, all non-governmental industrial customers with valid City of Memphis issued sewer Discharge Agreements having wastewater flows less than 10 million gallons per month will pay 100% of the latest adopted sewer rate for all wastewater discharged up to a fee amount of \$1,000 per month. All wastewater discharge costs in excess of \$1,000 per month will be adjusted per the following schedule:

```
1 July 2004 through 30 June 2005: 20% increase over FY04 rates 1 July 2005 through 30 June 2006: 30% increase over FY04 rates
```

Beginning 1 July 2006, all industrial customers will pay 100% of the then current sewer rate.

This fee schedule will remain in effect until changed by amendment to this section.

Charges to all users shall be based on the indicated formula using the following:

Q =Total flow to treatment plants minus any infiltration/inflow

- T (Q) =Treatment cost assigned to flow (includes debt service, operation, maintenance, and replacement costs)
- T (B) =Treatment cost assigned to BOD (includes debt service, operation, maintenance, and replacement costs)
- T (S) =Treatment costs assigned to suspended solids (includes debt service, operation, maintenance, and replacement costs)
- B (R) = Residential strength BOD loading (250 milligrams per liter)

- B =Total BOD loading or BOD capacity of treatment plants, whichever is less S (R) = Residential strength suspended solids loading (300 milligrams per liter)
- S (R) =Residential strength suspended solids loading (300 milligrams per liter).
- S =Total suspended solids loading or suspended solids capacity of treatment plants, whichever is less
  - (2) Additional treatment cost. In addition to the volumetric charge, all users who discharge wastewater with a strength greater than domestic sewerage (BOD of 250 milligrams per liter, SS of 300 milligrams per liter) will be assessed an additional treatment charge (ATC) based on the following formula:

$$ATC = \{U(B) T(B)\}/B + \{U(S) T(S)\}/S$$

Where:

- U (B) = BOD loading in excess of 250 milligrams per liter
- T (B) = Treatment costs assigned to BOD (includes debt service, operation, maintenance, and replacement costs)
- B =Total BOD loading or BOD capacity of treatment plants, whichever is less
- U (S) =Suspended solids loading in excess of 300 milligrams per liter
- T (S) =Treatment costs assigned to suspended solids (includes debt service, operation, maintenance, and replacement costs)
- S =Total suspended solids loading or suspended solids capacity of treatment plants, whichever is less

Sampling frequency for determination of the ATC will be specified in the sewer use agreement.

COD or TOC analytical results may be used in lieu of the BOD test if the BOD test is not applicable due to a toxic effect of the wastewater or a substantial correlation can be developed between BOD and the substitute test, and if allowed by the Approving Authority. If a BOD test is not applicable due to a toxic effect, then the Approving Authority has the authority to require the discharger to determine the cause of the toxic effect and then to eliminate the constituent causing the toxic effect.

(c) Cooperative agreements. The sewer service charges in this section are applicable to every person inside and outside the corporate limits of the city whose sewage or wastewater empties into the city's sewage system for eventual disposal through the sewage system and sewage or wastewater treatment plants. The city shall enter into appropriate agreements with the county and all other municipalities in the county or elsewhere using the city's sewage

system for the disposal of their sewage or wastewater, which agreements shall provide for the implementation of the charges herein and the billing and collection thereof. Such county and municipalities shall be required to enter into such agreement in order to continue their position of discharging their sewage and wastewater through the sewerage system established by the city. All funds collected shall be deposited with the city in the sewer treatment fund in accordance with applicable agreements.

(d) Private wells. Those users having private wells will install either water meters on the wells or approved metering devices on wastewater discharged to the city sewers. Users will be classified as residential or commercial-industrial according to classifications established by the light, gas and water division or other water-serving utility.

Any user desiring to exercise his option of installing an approved metering device shall notify the approving authority of his exercise of the option, and the approving authority from the date of installation of the metering device shall adjust its charges back to the date of the notice of the user to install the metering device or ninety (90) days, whichever is sooner and such adjustment shall be based upon the average charge for the ninety (90) days following the installation of the metering device. Those users having private wells shall have ninety (90) days in which to install a water meter or a metering device for measuring wastewater discharged into the city sewer system. The city shall estimate charges for the period of time prior to the installation of the device and shall adjust the charges based on ninety (90) days experience after the installation of the device. If a private well owner installs a water meter and thereafter elects to install a metering device for measuring wastewater discharge into the city sewerage system, then he likewise shall have his charges adjusted from the time of the installation of the device back to the date of notice to the approving authority or ninety (90) days, whichever is sooner, and such adjustment shall be based on the charges for ninety (90) days following the installation. Wherever used in this section, the word "sewer" shall mean "sanitary sewer".

## Sec. 33-132. Distribution of funds, accounting therefore.

The approving authority shall institute an accounting system reflecting an equal distribution of total funds produced under the division based upon the respective needs of each segment of the wastewater treatment operations and maintenance functions, including but not limited to, treatment plant operations; sewer maintenance; sewer design; sewer construction; pollution control monitoring; wastewater treatment capital improvements bond indebtedness loan repayments; direct and incidental costs to the city, including, but not limited to, administrative, technical and legal expenses; and other expenditures necessary for an effective wastewater treatment program. Revenue generated under this division shall be used exclusively for the wastewater treatment program.

(Ord.No.2597, #1,6-7-77; Ord. No.2877, #1,5-15-79; Code 1967, #35 1/2-44)

## Sec. 33-133. Sewer fee review.

Costs used in the above formulas shall be based upon a five-year average, and rates generated under articles II and III of this chapter shall be reviewed annually and approved or adjusted by the city council resolution.

(Ord.No.2597, #1,6-7-77; Ord. No.2877, #1,5-15-79; Code 1967, #35 1/2-45)

Sec. 33-134. Appeals.

Appeals related to sewer use fees, connection fees, development fees, and/or sewer extension fees in situations in which the owner, user, company, etc., feels that extenuating circumstances exist that warrant a modification of the applicable fee should be made to the Director of Public Works. The Director of Public Works shall have authority to modify or waive fees as is considered appropriate. The decision of the Director of Public Works shall be final

Sec. 33-135--33-140. Reserved

### **DIVISION 3. POWERS AND AUTHORITY OF INSPECTORS**

## Sec. 33-141. Authority to enter; limitation on extent of inquiry.

Representatives of the approving authority, regulatory agency and other duly authorized employees of the city, bearing proper credentials and identification, shall be permitted to enter appropriate property areas at all reasonable times for the purpose of inspection, observation, measurement, sampling, and testing in accordance with the provisions of articles II and III of this chapter. The approving authority shall have no authority to inquire into any processes including metallurgical, chemical, oil refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

(Ord.No.2597, #1,6-7-77; Ord. No.2877, #1,5-15-79; Code 1967, #35 1/2-47)

# Sec. 33-142. Injury to or by city employees engaged in inspection activities.

While performing the necessary work on private properties referred to in section 33-141 above, the approving authority or duly authorized representatives of the city shall observe all safety rules applicable to the premises established by the company. The company shall be held harmless for injury or death to the city employees, except as hereinafter provided, and the city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the performance of the necessary work on private property by such city employees, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in section 33-107.

(Ord.No.2597, #1,6-7-77; Ord. No.2877, #1,5-15-79; Code 1967, #35 1/2-48)

# Sec. 33-143. Authority to enter upon easements for the purposes of inspection of sewerage works

The approving authority and other duly authorized representatives of the city, bearing proper credentials and identification, shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purposes of inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewerage works lying within such easement. All entry and subsequent work, if any, on such easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

(Ord.No.2597, #1,6-7-77; Ord. No.2877, #1,5-15-79; Code 1967, #35 1/2-49)

# Sec. 33-144. Termination of service upon finding of violation.

The approving authority may enter upon private property and terminate service to the property in which a violation of any rule or regulation of articles II and III of this chapter is found to exist. Prior to termination of service, however, the approving authority shall notify, in writing, the owner and tenant, if any, of such property that service is intended to be terminated, and conduct a hearing thereon as herein provided. Such notice shall be mailed to the owner at the address shown on the records of the assessor of the county or as known to the clerk, and a copy shall be delivered to the tenant or posted conspicuously on the property. The notice shall state the date of the proposed termination of service, and reasons therefore, and the approving authority shall hold a hearing upon such intended termination. Such hearing shall not be held less than ninety (90) days subsequent to the giving of notice as herein required. (Ord.No.2597, #1,6-7-77; Ord. No.2877,#1,5-15-79; Code 1967, #35 1/2-50)

Sec. 33-145--33-155. Reserved.

### **DIVISION 4. BILLING PROCEDURES**

## See. 33-156. Billing and Collection.

- (a) The sewer service charge shall be included each month on the bills rendered by the light, gas and water division, or other serving utility, in accordance with its standard billing practices. Such charges shall be rendered on the first bill of the serving utility sent out on and after June 1, 1979, and for each month thereafter. Billings separate from those made by the light, gas and water division, as determined by the Director of Public Works, may be made to commercial and industrial users. Failure to pay the sewer service charge within thirty (30) days from due date of the utility statement shall be grounds for terminating water service by the serving utility.
- (b) When service commences or ceases, applicable charges may be prorated.
- (c) If service shall be supplied to a location, the occupant or tenant of which was vacated, and the city is satisfied that there has been a termination of sewer service, then the city, on timely application of the owner or agent thereof, may suspend liability for such charges, and such

charges shall be reinstated for the next utility bill rendered to the occupant or tenant of such premises.

- (d) Charges based on metered measurement of volume discharged to the sewer system and/or additional treatment costs based on wastewater strength, shall be paid monthly to the city in a manner prescribed by the approving authority.
- (e) The sewer service charges are applicable to every person, inside and outside the corporate limits of the city, whose sewage and wastewater empties into the city's collection and treatment systems.
- (f) Credit for prior billing errors is limited to errors occurring less than or equal to twelve (12) months prior to the date that the claim for credit is made by residential or commercial customers.
- (g) In accordance with the apartment credit program the approving authority has the right to charge each tenant three dollars and seventy-five cents (\$3.75) per month if so requested in writing by the apartment owner. The total amount collected will then be credited against the amount billed from the master water meter reading each month.
- (h) Commercial and Industrial users that are billed separately from the MLG&W billing system will be charged a late fee of (1) percent or \$200, whichever is less, for any portion of each month in which billing information as required is not submitted to the sewer billing office by the fifteenth (15th) of each month for the previous month.

  Sec. 33-157--33-170. Reserved.

## **DIVISION 5. PRETREATMENT ENFORCEMENT**

# Section 33-171. Local Hearing Authority

(a) General Duties.

The Local Hearing Authority, pursuant to Tennessee Code Annotated 69-3103, is responsible for the administration and enforcement of the pretreatment program and the said state statute.

(b) Hearings.

Any hearing or rehearing brought before the Local Hearing Authority shall be conducted in accordance with the following:

(1)Upon receipt of a written petition from the alleged violator pursuant to this section, the Director shall give the petitioner thirty (30) days written notice of the time and place of the hearing, but in no case shall such hearing be held more than sixty (60) days from the receipt of the written petition, unless the Director and the petitioner agree to a postponement.

- (2) The hearing herein provided may be conducted by a Local Hearing Authority at a regular or a special meeting.
- (3) A verbatim record of the proceedings of such hearing shall be taken and filed with the Local Hearing Authority, together with the findings of fact and conclusions of law made pursuant to subdivision (6) of this section. The transcript so recorded shall be made available to the petitioner or any party to a hearing upon payment of a charge set by the Local Hearing Authority to cover the costs of preparation.
- (4) In connection with the hearing, the Director shall issue subpoenas in response to any reasonable request by any party to the hearing requiring the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing. In case of contumacy or refusal to obey a notice of hearing or subpoena issued under this section, the Shelby County Chancery Court shall have jurisdiction upon the application of the Local Hearing Authority or the Director to issue an order requiring such person to appear and testify or produce evidence as the case may require and any failure to obey such order of the court may be punished by such court as contempt thereof.
- (5) The Local Hearing Authority may administer oaths and examine witnesses.
- (6) On the basis of the evidence produced at the hearing, the Local Hearing Authority shall make findings of fact and conclusions of law and enter such decisions and orders as in its opinion will best further the purposes of the pretreatment program and shall give written notice of such decisions and orders to the alleged violator. The order issued under this subsection shall be issued no later than thirty (30) days following the close of the hearing by the person or persons designated by the Local Hearing Authority.
- (7) The decision of the Local Hearing Authority shall become final and binding on all parties unless appealed to the courts as provided in subsection (e).
- (8) Any person to whom an emergency order is directed pursuant to Section 33-173(b) shall comply therewith immediately but on petition to the Local Hearing Authority shall be afforded a hearing as soon as possible, but in no case shall such hearing beheld later than three (3) days from the receipt of such petition by the Local Hearing Authority.

## (c) Appeal

An appeal may be taken from any final order or other final determination of the Local Hearing Authority by any party, including the pretreatment agency, who is or may be adversely affected thereby, to the chancery court pursuant to the common law writ of certiorari setout in the Tennessee Code Annotated, Section 27-8-101, within sixty (60) days from the date such order or determination is made.

## Section 33-172. Complaint Procedures.

- (a) Complaint issued by Director.
- (1) Whenever the Director has reason to believe that a violation of any provision of the pretreatment program of the pretreatment agency or orders of the local hearing authority issued pursuant thereto has occurred, is occurring, or is about to occur, the Director may cause a written complaint to be served upon the alleged violator or violators.
- (2) The complaint shall specify the provision or provisions of the pretreatment program or order alleged to be violated or about to be violated, the facts alleged to constitute a violation thereof, may order that necessary corrective action be taken within a reasonable time to be prescribed in such order, and shall inform the violators of the opportunity for a hearing before the Local Hearing Authority.
- (3) Any such order shall become final and not subject to review unless the person or persons named therein request by written petition a hearing before the Local Hearing Authority as provided in Section33-172 (b)(8), no later than thirty (30) days after the date such order is served; provided, however, that the Local Hearing Authority may review such final order on the same grounds upon which a court of the state may review default judgments.

# (b) Emergency Circumstances

- (1) Whenever the Director finds that an emergency exists imperatively requiring immediate action to protect the public health, safety or welfare, the health of animals, fish or aquatic life, a public water supply, or the facilities of the publicly owned treatment works of the pretreatment agency, the local administrative officer may, without prior notice, issue an order reciting the existence of such an emergency and requiring that such action be taken as the Director deems necessary to meet the emergency up to and including immediate termination of sewer service.
- (2) If the violator fails to respond or is unable to respond to the Director's order, the Director may take such emergency action, as he deems necessary, or contract with a qualified person or persons to carry out the emergency measures. The director may assess the person or persons responsible for the emergency condition for actual costs incurred by the local administrative officer in meeting the emergency.
- (c) Except as otherwise expressly provided, any notice, complaint, order or other instrument issued by or under authority of this part may be served on any person affected thereby personally, by the Director or any person designated by him, or such service may be made in accordance with Tennessee statutes authorizing service of process in civil action. Proof of service shall be filed in the office of the Director.

### Section 33-173. Violations and Penalties

## (a) Violations

- (1) Any person including, but not limited to residential, carwash, restaurant, commercial, industrial users, who does any of the following acts or omissions shall be subject to a civil penalty of up to ten thousand dollars (\$10,000) per day for each day during which the act or omission continues or occurs:
  - (a) Violates an effluent standard or limitation imposed by a pretreatment program;
  - (b) Violates the terms or conditions of a discharge agreement issued pursuant to a pretreatment program;
  - (c) Fails to complete a filing requirement of a pretreatment program;
  - (d) Fails to allow or perform an entry, inspection, and monitoring or reporting requirement of a pretreatment program;
  - (e) Fails to pay user or cost recovery charges imposed by a pretreatment program; or
  - (f) Violates a final determination or order of the local hearing authority or the local administrative officer.
  - (g) Violates the regulations for transportation or disposal of hauled wastes.
- (2) Any civil penalty shall be assessed in the following manner:
  - (a) The Director may issue an assessment, administrative order, cease and desist order, or notice of violation against any person or industrial user responsible for the violation;
  - (b) Any person or industrial user against whom an assessment has been issued may secure a review of such assessment by filing with the Director a written petition setting forth the grounds and reasons for his objections and asking for a hearing in the matter involved before the Local Hearing Authority and if a petition for review of the assessment is not filed within thirty (30) days after the date the assessment is served, the violator shall be deemed to have consented to the assessment and it shall become final;
  - (c) Whenever any assessment has become final because of a person's failure to appeal the Director's assessment, the Director may apply to the appropriate court for a judgment and seek execution of such judgment and the court, in such proceedings, shall treat a failure to appeal such assessment as a confession of judgment in the amount of the assessment.

- (d) In assessing the civil penalty the Director may consider the following factors:
  - (i) Whether the civil penalty imposed will be substantial economic deterrent to illegal activity;
  - (ii) Damages to the pretreatment agency, including compensation for the damage or destruction of the facilities of the publicly owned treatment works, and also including any penalties, costs and attorneys' fees incurred by the pretreatment agency as the result of the illegal activity, as well as the expenses involved in enforcing this section and the costs involved in rectifying any damages;
  - (iii) Cause of the discharge or violation;
  - (iv) The severity of the discharge and its-effect upon the facilities of the publicly owned treatment works and upon the quality and quantity of the receiving waters;
  - (v) Effectiveness of action taken by the violator to cease the violation;
  - (vi) The technical and economic reasonableness of reducing or eliminating the discharge;
  - (vii) The economic benefit gained by the violator.
- (e) The Director may institute proceedings for assessment in the chancery court in which all or part of the pollution or violation occurred, in the name of the pretreatment agency.
- (3) The Local Hearing Authority may establish by regulation a schedule of the amount of civil penalty which can be assessed by the Director for certain specific violations or categories of violations.
  - (a) Any civil penalty assessed to a violator pursuant to this section may be in addition to any civil penalty assessed by the Commissioner of the Department of Health & Environment for violations of Tennessee Code Annotated, Section69-3-115 (a) (1)(F). Provided, however the sum of penalties imposed by this section and by Tennessee Code Annotated, Section 69-3-115(a) shall not exceed ten thousand dollars (\$10,000) per day for each day during which the act or omission continues or occurs. The state's share of any additional costs of this section shall be funded in accordance with Tennessee Code Annotated, Section 9-6-303, from the increase in state imposed taxes which are earmarked to counties and which are not designated by such counties for a particular purpose.
- (4) Any person who willfully or negligently violates any section of this ordinance including, but not limited to, Federal Pretreatment Program Standards, Wastewater Discharge Agreement, Hauled Wastewater Permit or Food Establishment Wastewater

Permit Conditions may be subject to criminal and civil penalties and/or injunctive relief imposed by the State of Tennessee and/or the United States.

- (b) Public Notification and Significant Noncompliance
  - (1) As required by 40 CFR 403.8, Federal Pretreatment Program Requirement, the City of Memphis will publish annually in the largest daily newspaper the names of all industrial/commercial users, which at any time during the year were in significant noncompliance with applicable pretreatment requirements. For purposes of this provision, an industrial user is in significant noncompliance if its violation meets one or more of the following criteria:
    - (a) Chronic violations of wastewater discharge limits, defined here as those in which Sixty-Six percent or more of all the measurements taken during a six month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;
    - (b) Technical Review Criteria (IRC) violations, defined here as those in which thirty-three percent or more of all the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable (TRC = 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH.
    - (c) Any other violation of a pretreatment effluent limit (daily maximum or long term average) that Control Authority determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POW personnel or general public);
    - (d) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority.
    - (e) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;
    - (f) Failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, 90 day compliance reports, and reports on compliance with compliance schedules;
    - (g) Failure to accurately report noncompliance;
    - (h) Any other violation or group of violations which the Control Authority determines will adversely affect the operation or implementation of the local pretreatment program.

## Section 33-174. Damages Assessment.

- (a) The Director may assess the liability of any polluter or violator for damages to the pretreatment agency resulting from any person's or industrial user s pollution or violation, failure, or neglect in complying with any permits or orders issued pursuant to the provisions of the pretreatment program or Section 33-171, 33-172, 33-173 or 33-174 herein.
- (b) If an appeal from such assessment is not made to the Local Hearing Authority by the polluter or violator within thirty (30) days of notification of such assessment, he shall be deemed to have consented to such assessment and it shall become final.
- (c) Damages may include any expenses incurred in investigating and enforcing the pretreatment program or Tennessee Code Annotated, Section 69-3-103 in removing, correcting, and terminating any pollution, and also compensation for any actual damages caused by the pollution or violation.
- (d) Whenever any assessment has become final because of a person's failure to appeal within the time provided, the Director may apply to the appropriate court for a judgment, and seek execution on such judgment. The court, in such proceedings, shall treat the failure to appeal such assessment as a confession of judgment in the amount of the assessment.

### Section 33-175-33-185. **Reserved.**

SECTION 2. BE IT FURTHER ORDAINED, that the provisions of this Ordinance are hereby declared to be severable. If any of these sections, provisions, sentences, clauses, phrases or parts are held unconstitutional or void, the remainder of this Ordinance shall continue in full force and effect.

SECTION 3. BE IT FURTHER ORDAINED that this Ordinance shall take effect from and after the time it shall have been passed by the Council, certified and delivered to the Office of the Mayor in writing by the Comptroller, and become effective as otherwise provided by law.

TOM MARSHALL- Chairman of Council Attest: Danny N. Wray, Comptroller